



**United States
General Accounting Office
Washington, D.C. 20548**

Office of the General Counsel

B-281365

November 5, 1998

The Honorable William V. Roth
Chairman
The Honorable Daniel Patrick Moynihan
Ranking Minority Member
Committee on Finance
United States Senate

The Honorable Thomas J. Bliley, Jr.
Chairman
The Honorable John D. Dingell
Ranking Minority Member
Committee on Commerce
House of Representatives

The Honorable Bill Archer
Chairman
The Honorable Charles B. Rangel
Ranking Minority Member
Committee on Ways and Means
House of Representatives

Subject: Department of Health and Human Services, Health Care Financing Administration: Medicare Program; Monthly Actuarial Rates and Monthly Supplementary Medical Insurance Premium Rate Beginning January 1, 1999

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Health and Human Services, Health Care Financing Administration (HCFA), entitled "Medicare Program; Monthly Actuarial Rates and Monthly Supplementary Medical Insurance Premium Rate Beginning January 1, 1999" (RIN: 0938-AI98). We received the notice on October 22, 1998. It was published in the Federal Register as a notice on October 21, 1998. 63 Fed. Reg. 56201.

The notice announces the monthly actuarial rates for aged (age 65 or over) and disabled (under age 65) enrollees in the Medicare Supplementary Medical Insurance (SMI) program for 1999. It also announces the monthly SMI premium rate to be paid by all enrollees during 1999. The monthly actuarial rates for 1999 are \$92.30 for aged enrollees and \$103.00 for disabled enrollees. The monthly SMI premium rate is \$45.50.

Enclosed is our assessment of HCFA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Many of the various statutes and executive orders which normally apply to the issuance of a final rule were found by HCFA to be inapplicable because the notice merely announces amounts required by legislation. Our review indicates that HCFA complied with the applicable requirements.

If you have any questions about this report, please contact James Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the Department of Health and Human Services, Health Care Financing Administration, is William Scanlon, Director, Health Financing and Systems Issues. Mr. Scanlon can be reached at (202) 512-7119.

Robert P. Murphy
General Counsel

Enclosure

cc: The Honorable Donna E. Shalala
The Secretary of Health and
Human Services

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY
THE DEPARTMENT OF HEALTH AND HUMAN SERVICES,
HEALTH CARE FINANCING ADMINISTRATION
ENTITLED
"MEDICARE PROGRAM; MONTHLY ACTUARIAL RATES AND
MONTHLY SUPPLEMENTARY MEDICAL INSURANCE PREMIUM RATE
BEGINNING JANUARY 1, 1999"
(RIN: 0938-AI98)

(i) Cost-benefit analysis

While a cost-benefit analysis was not conducted because the increases were statutorily directed, the cost to the beneficiaries is discussed in the notice. It is estimated that the cost of the increase in the premium to the approximately 37 million SMI enrollees will be about \$0.754 billion for 1999.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

HCFA has reviewed the notice and has found that no analyses under the Act are required. Since states and individuals are not considered small entities, there will be no significant impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The notice will not impose a federal mandate under Title II of the Act for state, local, or tribal governments or the private sector.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

In accordance with HCFA's past practice regarding the publication of the monthly actuarial rates and the Part B premium amount under Medicare where such amounts are determined according to the statute, general notice rather than notice and comment rulemaking procedures contained in section 553 of the Administrative Procedure Act are used. HCFA states that it found good cause to waive publication of a proposed notice and solicitation of public comments because, as noted, the amounts are statutorily directed.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The notice does not contain any information collections which are subject to review by the Office of Management and Budget under the Paperwork Reduction Act.

Statutory authorization for the rule

The notice was issued pursuant to the authority of section 1839 of the Social Security Act (42 U.S.C. § 1395r).

Executive Order No. 12866

The notice was reviewed by the Office of Information and Regulatory Affairs, Office of Management and Budget, and was determined to be "economically significant" under the order.